

SCOTT N. SCHOOLS (SC 9990)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 MELANIE L. PROCTOR (CSBN 228971)  
 Melanie.Proctor@usdoj.gov  
 Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102-3495  
 Telephone: (415) 436-6730  
 FAX: (415) 436-6927

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

STEPHEN CHANG and HONGYAN CHEN,	)	No. C 07-3562 SBA
	)	
Plaintiffs,	)	
	)	
v.	)	ANSWER TO COMPLAINT
	)	
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security;	)	
ROBERT S. MUELLER, III, Director of the	)	
Federal Bureau of Investigation,	)	
	)	
Defendants.	)	

Defendant Michael Chertoff ("Defendant") hereby submits his answer to Plaintiffs' Complaint for Writ in the Nature of Mandamus.

1. Paragraph One consists of Plaintiffs' characterization of this action for which no answer is required; however, to the extent that such allegations are deemed to require an answer, Defendant admits that the application is pending with the United States Citizenship and Immigration Services ("USCIS").

**PARTIES**

2. Defendant admits the allegations in Paragraph Two with the exception that Plaintiff Stephen Chang is 69 years of age, and is a native of China.

3. Defendant admits the allegations in Paragraph Three.



denial is required; to the extent a responsive pleading is deemed to be required, Defendant denies this paragraph.

**AFFIRMATIVE AND/OR OTHER DEFENSES**

All allegations not here before specifically admitted, denied, or modified are hereby denied. For further and separate answer, Defendant alleges as follows:

**FIRST DEFENSE**

The Court lacks jurisdiction over the subject matter of this action

**SECOND DEFENSE**

The Complaint fails to state a claim against the Defendant upon which relief can be granted.

**THIRD DEFENSE**

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiffs.

**FOURTH DEFENSE**

At all times alleged in the complaint, Defendant was acting with good faith, with justification, and pursuant to authority.

**FIFTH DEFENSE**

The Defendant is processing the applications referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

WHEREFORE, Defendant prays for relief as follows:

That judgment be entered for Defendant and against Plaintiffs, dismissing Plaintiffs' Complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: September 10, 2007

Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

/s/  
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MELANIE L. PROCTOR  
Assistant United States Attorney  
Attorneys for Defendants